

IDEM

Nonrule Policy Document

Indiana Department of Environmental Management
Office of Land Quality
P.O. Box 6015
Indianapolis, IN 46206-6015
OLQ PH: (317) 232-8941

Title: RCRA Closure and Corrective Action

Identification Number: WASTE-0015-NPD

Date Originally Adopted: August 11, 1997

Dates Revised: None

Other Policies Repealed or Amended: None

Citations Affected: IC 13-22-13, 329 IAC 3.1-9 (40 CFR 264, Subpart G) and 329 IAC 3.1-10 (40 CFR 265, Subpart G)

Brief Description of Subject Matter: Different situations have surfaced where remedial activities under Resource Conservation and Recovery Act (RCRA) Subtitle C closures can more appropriately be addressed through our corrective action authorities. This document addresses those scenarios, and the procedures to be followed when documenting them

This nonrule policy document is intended solely as guidance and does not have the effect of law or represent formal Indiana Department of Environmental Management (IDEM) decisions or final actions. This nonrule policy document shall be used in conjunction with applicable laws. It does not replace applicable laws, and if it conflicts with these laws, the laws shall control. A revision to this nonrule policy document may be put into effect by IDEM once the revised nonrule policy document is made available for public inspection and copying. IDEM will submit revisions to the Indiana Register for publication.

RCRA CLOSURE AND CORRECTIVE ACTION

Different situations have surfaced where remedial activities under Resource Conservation and Recovery Act (RCRA) Subtitle C closures can more appropriately be addressed through our corrective action authorities. This document addresses those scenarios, and the procedures to be followed when documenting them.

Affected Parties

This guidance is applicable to any RCRA Treatment, Storage or Disposal (TSD) facility going through closure(s) or partial closures(s), pursuant to IC 13-22-13, 329 IAC 3.1-9 (40 CFR 264, Subpart G) and 329 IAC 3.1-10 (40 CFR 265, Subpart G). Internally, this guidance may affect the Hazardous Waste Permit Section, Permits Branch of the Office of Land Quality (OLQ), the Hazardous Waste Enforcement Section of the Office of Enforcement (OE) and the Office of Legal Counsel (OLC).

Scenarios

The following are scenarios that have occurred or may occur, where it could be more appropriate to address the remedial activities of closure or partial closure of regulated units at TSD facilities under our corrective action authorities pursuant to IC 13-22-2-5 (Permitting), or IC 13-22-13 (Enforcement). These may include, but are not limited to:

1. Upgradient contaminants - Migration of contaminants from upgradient or crossgradient sources into the regulated unit boundaries, to the extent that the origin of the contamination cannot be attributed solely to said unit;
2. Downgradient contaminants - Migration of regulated unit contaminants beyond the unit boundaries that ultimately commingle with contaminants from other sources, to the extent that the origin cannot be determined;
3. Pre RCRA contaminants - Discovery of contamination within the unit boundaries, of constituents most probably released prior to interim status or permit issuance;
4. Persistent contaminants - Regulated unit contamination either within or beyond the unit boundaries, that for whatever reason would preclude reasonable compliance with the timeframes for closure outlined at 40 CFR 264.113 or 265.113; and
5. No further action at this time - A surficial closure/cleanup is done on a regulated concrete slab unit, and no sampling is done on the soils under the slab. The surface is certified as clean and the condition of the soils are unknown, and deferred to corrective action for sometime in the future. This fits the situation in corrective action where operating solid waste management units on slabs are deferred to possible future action by the designation of "no further action at this time".

This list is not intended to be inclusive of all possible situations where corrective action authorities might be used instead of the requirements for closure. Each facility must be evaluated on a case-by-case basis.

Procedures

IDEM staff who feel they have a situation at a TSD facility that could involve IDEM's corrective action authority, should consult their section chief for concurrence. If in agreement, a meeting should be scheduled between those parties, the chief of the Corrective Action Section, and any other staff assigned to that facility. If it is decided to use this course of action, a memo should be drafted from the initiating party through their section chief to the chief of the Corrective Action Section, which sets out a brief history, an explanation of the situation, all discussions to date, and a request that corrective action

authority be used to address the situation. Any certification of closure should contain a paragraph that outlines the situation and expressly states that the facility will be going through the corrective action process to address any remaining contamination. Financial assurance instruments may have to be amended to include corrective action. This could be addressed through either a permit modification, or an agreed order. Any questions on this RIM should be directed to the chief of the Corrective Action Section.